

insurance program authorized by section 203(k) of the National Housing Act (12 U.S.C. 1709(k)) (referred to as the “203(k) Program”).

(b) *Consultant functions.* Only a consultant included on the list may be selected by the lender to conduct any consultant function under the 203(k) Program (see § 203.50(1) of this title).

(c) *Disclaimer.* The inclusion of a consultant on the list means only that the consultant has met the qualifications and conditions prescribed by the Secretary for placement on the list of consultants qualified for the 203(k) Program. The inclusion of a consultant on the list does not create or imply a warranty or endorsement by HUD of the consultant, nor does it represent a warranty of any work performed by the consultant.

[67 FR 52380, Aug. 9, 2002]

§ 200.191 Placement of 203(k) consultant.

(a) *Application.* To be considered for placement on the list, a consultant must apply to HUD using an application (or materials) in a form prescribed by HUD.

(b) *Eligibility.* To be eligible for placement on the list:

(1) The consultant must demonstrate to HUD that it either:

(i) Has at least three years’ experience as a remodeling contractor, general contractor or home inspector; or

(ii) Is a state-licensed architect or state-licensed engineer;

(2) If located in a state that requires the licensing of home inspectors, the consultant must submit proof of such licensing;

(3) The consultant must submit a narrative description of the consultant’s ability to perform home inspections, prepare architectural drawings, use proper methods of cost estimating and complete draw inspections.

(4) The consultant must certify that it has read and fully understands the requirements of the HUD handbook on the 203(k) Program (4240.4) and all HUD Mortgagee Letters and other instructions relating to the 203(k) Program.

(5) The consultant must not be listed on:

(i) The General Services Administration’s Suspension and Debarment List;

(ii) HUD’s Limited Denial of Participation List; or

(iii) HUD’s Credit Alert Interactive Voice Response System.

(6) The consultant must have passed a comprehensive examination on the 203(k) Program, if HUD has developed such an exam.

(c) *Delayed effective date of examination requirement for consultants currently on the list.* Consultants who are included on the list on the date when the requirement for the examination described in paragraph (b)(6) of this section becomes effective have until 6 months following this date to pass the comprehensive exam. Failure to pass the examination by the deadline date constitutes cause for removal under § 200.192.

[67 FR 52380, Aug. 9, 2002]

§ 200.192 Removal of 203(k) consultant.

(a) *Cause for removal.* HUD may remove a consultant from the list for any cause that HUD determines to be detrimental to HUD or its programs. Cause for removal includes, but is not limited to:

(1) Poor performance on a HUD quality control field review;

(2) Failure to comply with applicable regulations or other written instructions or standards issued by HUD;

(3) Failure to comply with applicable Civil Rights requirements;

(4) Being debarred or suspended, or subject to a limited denial of participation;

(5) Misrepresentation or fraudulent statements;

(6) Failure to retain standing as a state licensed architect or state-licensed engineer (unless the consultant can demonstrate the required three years experience as a home inspector or remodeling contractor);

(7) Failure to retain standing as a state licensed home inspector, if the consultant is located in a state that requires such licensing; or

(8) Failure to respond within a reasonable time to HUD inquiries or requests for documentation.

(b) *Procedure for removal.* A consultant that is debarred or suspended, or subject to a limited denial of participation will be *automatically* removed from

§ 200.193

the list. In all other cases, the following procedure for removal will be followed:

(1) HUD will give the consultant written notice of the proposed removal. The notice will state the reasons for, and the duration of, the proposed removal.

(2) The consultant will have 20 days from the date of the notice (or longer, if provided in the notice) to submit a written response appealing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with the written response.

(3) A HUD official will review the appeal and send a response either affirming, modifying, or canceling the removal. The HUD official will not be someone who was involved in HUD's initial removal decision. HUD will respond with a decision within 30 days of receiving the appeal or, if the consultant has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the consultant.

(4) If the consultant does not submit a timely written response, the removal will be effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If a written response is submitted, and the removal decision is affirmed or modified, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(c) *Placement on the list after removal.* A consultant that has been removed from the list may apply for placement on the list (in accordance with § 200.191) after the period of the consultant's removal from the list has expired. An application will be rejected if the period for the consultant's removal from the list has not expired.

(d) *Other action.* Nothing in this section prohibits HUD from taking such other action against a consultant, as provided in 2 CFR part 2424, or from seeking any other remedy against a consultant, available to HUD by statute or otherwise.

[67 FR 52380, Aug. 9, 2002, as amended at 72 FR 73494, Dec. 27, 2007]

24 CFR Ch. II (4–1–11 Edition)

§ 200.193 Responsibilities of 203(k) consultants on the list.

All consultants included on the list are responsible for:

(a) Obtaining and reading the HUD handbook on the 203(k) Program (4240.4) and any updates to the handbook.

(b) Complying with the HUD handbook on the 203(k) Program (4240.4), and any updates to the handbook, when performing any consultant function under the 203(k) Program.

(c) Obtaining and reading all Mortgagee Letters and other instructions issued by HUD relating to the 203(k) Program.

(d) Complying with all Mortgagee Letters and other instructions issued by HUD relating to the 203(k) Program, when undertaking any consultant function under the 203(k) Program.

(e) Complying with HUD's request for documentation relating to any 203(k) project on which the consultant has worked.

(f) Complying with HUD's monitoring requirements relating to the 203(k) Program.

[67 FR 52381, Aug. 9, 2002]

NONPROFIT ORGANIZATION

§ 200.194 Placement of nonprofit organization on Nonprofit Organization Roster.

(a) *Nonprofit Organization Roster.* HUD maintains a roster of nonprofit organizations that are qualified to participate in certain specified FHA activities. In order to be recognized as a nonprofit organization for purposes of single family regulations in this chapter, an organization must:

(1) Be included in the Roster; and

(2) Comply with any requirements stated in a specific applicable provision of the single family regulations in this chapter.

(b) *Application.* To be included in the Roster, a nonprofit organization must apply to HUD using an application (or materials) in a form prescribed by HUD (which may require an affordable housing program narrative for the activities the nonprofit organization proposes to carry out). The nonprofit organization must specify in its application